

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

|                                |   |                         |
|--------------------------------|---|-------------------------|
| SHELDON GORDON, <i>et al</i> , | : | Case No. 1:05cv2726     |
|                                | : |                         |
| Plaintiffs,                    | : | JUDGE KATHLEEN O'MALLEY |
|                                | : |                         |
| v.                             | : |                         |
|                                | : | <u>ORDER</u>            |
| DAVID DADANTE, <i>et al</i> ,  | : |                         |
|                                | : |                         |
| Defendants.                    | : |                         |

With leave of Court, Plaintiffs filed their *First Amended Complaint* on April 5, 2006 (Doc. 71). Accordingly, in so far as they relate only to the original Complaint (Doc. 1), Defendant Dadante's *Motion to Dismiss* (Doc. 18) and *Motion for Summary Judgment* (Doc. 23) are **DENIED as moot**; and Defendant Pershing LLC's *Motion to Dismiss* (Doc. 47) is **DENIED as moot**. If appropriate, these motions may be re-filed. Parties shall not, however, simply re-file these motions without first verifying – and, to the extent necessary, revising – that previously asserted arguments remain relevant *vis-a-vis* the *First Amended Complaint*.

In light of the Court's various Orders and interactions with the stakeholder defendants, Defendant Ferris, Baker Watts, Inc.'s *Motion to Modify Order Dated November 23, 2005* (Doc. 10) is **DENIED as moot**.

IT IS SO ORDERED.

s/Kathleen M. O'Malley  
KATHLEEN McDONALD O'MALLEY  
UNITED STATES DISTRICT JUDGE

Dated: April 18, 2006